

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

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BCG, INC. and CHESAPEAKE PRODUCTS & SERVICES,	:	
	:	
Plaintiffs,	:	C.A. No. 07-cv-207 (GMS)
	:	
v.	:	TRIAL BY JURY
	:	OF TWELVE DEMANDED
GLES, INC. d/b/a SWEET OIL COMPANY,	:	
	:	NON-ARBITRATION CASE
	:	
	:	
	:	
Defendant/Third-Party Plaintiff,	:	
	:	
v.	:	
	:	
SUNOCO, INC.,	:	
	:	
Third-Party Defendant.	:	
	:	

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**NOTICE OF DEPOSITION**

PLEASE TAKE NOTICE that Third-Party Defendant Sunoco, Inc. (R&M), by its undersigned counsel, will take the deposition of Defendant/Third-Party Plaintiff GLES, Inc. d/b/a Sweet Oil Company pursuant to Fed. R. Civ. P. 30(b)(6). Defendant GLES, Inc. shall designate one or more officers, directors, or managing agents to testify regarding the accuracy and authentication of the matters set forth on the attached Statement of Undisputed Facts.

The deposition will be conducted at the offices of Prickett, Jones & Elliot, PA, 11 North State Street, Dover, DE 19901 on March 13, 2008, commencing at 9:00 a.m. The deposition will be taken before a person duly authorized to administer oaths and will be recorded by stenographic means.

**PEPPER HAMILTON LLP**

/s/ Matthew A. Kaplan

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Dated: March 10, 2008

*Attorneys for Third-Party Defendant,  
Sunoco, Inc. (R&M)*

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FOR THE DISTRICT OF DELAWARE**

BCG, INC. and  
CHESAPEAKE PRODUCTS & SERVICES,

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V.

GLES, INC. d/b/a SWEET OIL COMPANY,

Defendant/Third-Party Plaintiff,

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SUNOCO, INC.,

Third-Party Defendant.

C.A. No. 07-cv-207 (GMS)

TRIAL BY JURY  
OF TWELVE DEMANDED

## NON-ARBITRATION CASE

## STATEMENT OF UNDISPUTED FACTS

1. Third-Party Plaintiff GLES Inc. d/b/a Sweet Oil Company (“Sweet Oil”) is a motor fuel wholesaler that purchases fuel and resells that fuel to retail motor fuel facilities.

2. On September 18, 2000, Peninsula Oil Company (“Peninsula”) and Tosco Refining, L.P. (“Tosco”) entered into the Mobil Branded Distributor Agreement (“Distributor Agreement”) with an expiration date of September 30, 2005.

3. The Distributor Agreement dated September 18, 2000 is genuine and authentic.

4. Among other things, the Distributor Agreement gave Peninsula a non-exclusive license to use the Mobil trademark in connection with the sale of motor fuel at a number of retail locations in Maryland, including, among others, two retail facilities located in Delmar and Snow Hill, Maryland (hereinafter referred to as the Delmar and Duck-In stations, respectively).

5. On February 25, 2002, Tosco and Peninsula entered into a Tosco Distributor Image Incentive Program Agreement for the Delmar Station (“Delmar Incentive Agreement”).

6. The Delmar Incentive Agreement dated February 25, 2002 is genuine and authentic.

7. On May 2, 2001, Tosco and Peninsula entered into a Tosco Distributor Image Incentive Program Agreement for the Duck-In Station ("Duck-In Incentive Agreement").

8. The Incentive Agreement dated May 2, 2001 is genuine and authentic.

9. As a consequence of a merger, Conoco Phillips Company ("COP") succeeded to all of Tosco's interests under, among other things, the Distributor Agreement and the Delmar and Duck-In Incentive Agreements.

10. Plaintiffs, BCG, Inc., Chesapeake Products & Service, Inc. (collectively "Plaintiffs") and Peninsula were parties to a Dealer Agreement dated October 3, 2002 which, among other things, permitted plaintiffs to purchase Mobil branded motor fuel from Peninsula and use the Mobil trade name and mark in connection with the sale of motor fuel at the Delmar Station.

11. The Dealer Agreement dated October 3, 2002 is genuine and authentic.

12. On April 28, 2004, COP assigned all of its right, title and interest under, among other things, the Distributor Agreement and the Delmar and Duck-In Incentive Agreements to Sunoco, Inc. (R&M).

13. On August, 31, 2005, Sweet Oil entered into an Assignment and Assumption Agreement with Peninsula wherein Peninsula assigned all of its rights under the Distributor Agreement, the Delmar and Duck-In Incentive Agreements and Dealer Agreement to Sweet Oil.

14. The Assignment and Assumption Agreement dated August 31, 2005 is genuine and authentic.

15. The Distributor Agreement was extended on a month by month basis subsequent to September 30, 2005.

16. In January 2006, Sunoco informed Sweet Oil that Sunoco's rights to the Mobil brand would end in February 2007 and Sunoco offered to convert the Delmar and Duck-In Stations to Sunoco.

17. The letter dated January 27, 2006 is genuine and authentic.

18. Sunoco also informed Sweet Oil that the Delmar Station would need to be converted to a Sunoco station pursuant to the terms of the Distributor Agreement and that Sweet Oil should inform Plaintiffs of the rebranding.

19. BCG refused to rebrand the Delmar Station and sell Sunoco branded motor fuel.

20. On November 2, 2006, Sunoco informed Sweet Oil that Plaintiffs' failure to rebrand the Delmar Station was a breach of the Incentive Agreement, obligating Sweet Oil to pay liquidated damages under the agreement.

21. The letter dated November 2, 2006 is genuine and authentic.

22. On January 23, 2007, Sunoco again informed Sweet Oil that Plaintiffs' failure to rebrand the Delmar Station was a breach of the Delmar Incentive Agreement, obligating Sweet Oil to pay liquidated damages under the agreement immediately.

23. The letter dated January 23, 2007 is genuine and authentic.

24. The Duck-In Station did not convert to the Sunoco brand.

25. On March 7, 2007, Sunoco issued Invoice No. 16232781 to Sweet Oil in the amount of \$112,306.54 for the unamortized balance of incentive payments for the Delmar Station.

26. Invoice No. 16232781 dated March 7, 2007 is genuine and authentic.

27. On March 7, 2007, Sunoco also issued Invoice No. 16232775 to Sweet Oil in the amount of \$11,416.36 for the unamortized balance of incentive payments for the Duck-In Station.

28. Invoice No. 16232775 dated March 7, 2007 is genuine and authentic.

29. Sweet Oil did not pay the invoices or the liquidated damages due to Sunoco under the Incentive Agreements.

**CERTIFICATE OF SERVICE**

I hereby certify that on March 10, 2008, a copy of Third-Party Defendant, Sunoco, Inc. (R&M)'s Notice of Deposition was served electronically upon the following counsel of record via *LexisNexis File and Serve*:

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